REMARKS

Amendments to the Specification:

Applicants have corrected punctuation errors and a typographical error in paragraph **[0001]** of the specification. In particular, the Non-provisional Application Serial Number, "60/131,270" in line 8 of paragraph **[0001]** was inadvertently typed instead of "60/131,279." This error in the serial number is obviously a typographical error as Application Serial No. 09/518,931, the parent application of the present application, claims priority to Provisional Application Serial Number 60/131,279 filed April 27, 1999 and not to Provisional Application Serial Number 60/131,270. In support of this correction, Applicants submit herewith a copy of the Official Filing Receipt from parent application 09/518,931 showing the correct priority of said application. Thus, no new matter has been added by way of amendment. Applicants respectfully request that this amendment be entered.

Status of the Claims

Upon entry of these remarks claims 1,15, 26, 31, 36, and 49-123 will be pending. Claims 2-14, 16-25, 27-30, 32-35, and 37-48 have been cancelled without prejudice or disclaimer. New claims 49-123 have been added. Support for the newly added claims is found throughout the specification as filed, and no new matter had been introduced.

More particularly, support for new claims directed to antibodies of the invention can be found, for example, in paragraphs [0235] through [0351]. Support for polypeptides bound by the antibodies of the invention may be found, for example, in paragraphs [0034], [0158], [0159], and [0238]. Support for new claims directed to monoclonal and polyclonal antibodies and Fab fragments of antibodies can be found, for example, in paragraph [0235]. Support for new claims directed to labeled antibodies can be found, for example, in paragraph [0285]. Support for new claims directed to methods detecting TNFR-6α or TNFR-6β proteins can be found, for example, in paragraphs [0243], [0337], and Example 13. Support for antibodies of the invention obtained from an animal immunized with a protein of the invention, for hybridomas, and for cell lines producing antibodies of the invention can be found, for example, in paragraphs [0171] through [0175], [0247] through [0250], [0260] through [0280], and Example 11. Support for antibodies that detect proteins of the invention in ELISA and Western Blot may be found, for example, in paragraphs [0294] through [0298]. Thus, no new matter has been added by way of amendment.

Provisional Election

The Examiner has required an election under 35 U.S.C. §121 of one of Groups I - V (*See*, Paper No. 5, pages 2-3). Groups I – IV are drawn to methods of treating or preventing an inflammatory disease, an autoimmune disease, graft vs. host disease, or allergy or asthma respectively, comprising administering to animal a protein of the invention. Group V is drawn to nucleic acid molecules encoding polypeptides of the invention or fusion proteins thereof, vectors host cells and methods of producing the polypeptides encoded by the aforementioned nucleic acid molecules.

In order to be fully responsive, Applicants provisionally elect, *with traverse*, the subject matter of new claims 49 - 123 drawn to antibodies that specifically bind TNFR-6 proteins of the invention.

Applicants submit that the subject matter of new claims 49 - 123 while fully supported by the specification as filed does not fall within the scope of the Groups I – V defined by the Examiner in the Office Action, but nonetheless form a single group of claims (hereafter referred to as Group VI) organized according to the scheme set forth by the Examiner in the Restriction Requirement. Under M.P.E.P. § 818.02(a) though, an election may be made by the presentation of original claims. Applicants reserve the right to file one or more divisional applications directed to non-elected groups should the restriction requirement be made final.

Applicants respectfully traverse the restriction requirement as it applies to Groups I – V and newly presented group VI (see below). The Examiner asserts that the claimed methods are patentably distinct inventions. Even assuming, *arguendo*, the Examiner were correct, where two patentably distinct inventions appear in a single application, restriction remains improper unless it can be shown that the search and examination of both groups would entail a "serious burden". *See*, M.P.E.P. § 803.

With respect to Groups I-IV, the Examiner has not indicated that the different Groups have a different status in the art, or a different field of search, beyond the statement that the different diseases and disorders named in the claims have different etiologies and therefore have different considerations for enablement. In fact, the Examiner has classified each of Groups I–IV into the same class and subclass. M.P.E.P. § 808.02(C) states that:

> Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions.

Thus, the Examiner has not made a *prima facie* showing of serious burden with respect to Groups I-IV. Accordingly, Applicants respectfully request that the restriction requirement be withdrawn, at least as it applies to Groups I-IV.

Furthermore, Applicants submit that it would not be a serious burden, to search the claimed methods of treatment (Groups I- IV) with the claimed nucleic acid molecules and antibodies (Groups V and VI, respectively). The search for TNFR-6 polypeptides used in the methods of treatment, would clearly provide useful information for the polynucleotide and antibody claims. For example, in many publications, both the polypeptide sequence and the nucleotide sequence encoding said polypeptide are disclosed. Thus, the searches for polynucleotides and polypeptides commonly overlap. Moreover, a search for polypeptides of the invention would encompass publications in which antibodies specific for the polypeptides of the invention are also disclosed. Thus, the search and examination of the claimed methods, polynucleotides and antibodies would not entail a serious burden.

In view of the above, Applicants respectfully request that the restriction requirement as it applies to Groups I-VI, and especially as it applies to Groups I- IV, be withdrawn.

CONCLUSION

Applicants respectfully request that the remarks above be entered and made of record in the file history of the instant application. No fee is believed to be due in connection with this filing, however if applicants are in error, please charge any fee deemed necessary to Deposit Account No. 08-3425.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gentz, et al.

Application Serial No.: 09/935,727 — Group Art Unit: 1646

Filed: August 24, 2001 — Examiner: O'Hara, Eileen B.

For: Tumor Necrosis Factor Receptors 6α & 6β — Atty Docket No.: PF454P2

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Amendments are shown in bold with insertions indicated with underlining and deletions indicated by strikeout. The application has been amended as follows:

In the Specification:

Paragraph **[0001]** was replaced with the following amended paragraph:

[0001] This application claims the benefit of priority under 35 U.S.C. § 119(e) based on U.S. Provisional Application Serial Numbers 60/303,224 filed July 6, 2001; 60/252,131 filed November 21, 2000; and 60/227,598 filed August 25, 2000. This application is also a continuation-in-part of, and claims benefit of priority under 35 U.S.C. § 120, of U.S. Non-Provisional Patent Application Serial Number 09/518,931 filed March 3, 2000 which claims the benefit of priority under 35 U.S.C. § 119(e) based on U.S. Provisional Application Serial Numbers 60/168,235 filed December 1, 1999; 60/146,371 filed August 2, 1999; 60/131,964 filed April 30, 1999; ~~60/131,270~~ **60/131,279** filed April 27, 1999; 60/124,092 filed March 12, 1999; and 60/121,774 filed March 4, 1999. U.S. Non-Provisional Patent Application Serial Number 09/518,931 is also a continuation-in-part of, and claims benefit of priority under 35 U.S.C. § 120, of U.S. Non-Provisional Patent Application Serial Number 09/006,352 filed January 13, 1998 which claims the benefit of priority under 35 U.S.C. § 119(e) based on U.S. Provisional Application Serial Number 60/035,496 filed January 14, 1997. This application is also a continuation in part and claims benefit of priority under 35 U.S.C. § 120, of U.S. Non-Provisional application 09/006,352 filed January 13, 1998. Each of the above U.S. Provisional and Non-Provisional Patent applications is hereby incorporated by reference in its entirety.

In the Claims:

Claims 2-14, 16-25, 27-30, 32-35, and 37-48 have been cancelled without prejudice or disclaimer.

New claims 49 to 123 have been added.